

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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LOCAL UNION No. 28, SHEET METAL
WORKERS' INTERNATIONAL
ASSOCIATION,

Plaintiff,

-against-

COOL SHEET METAL INC.,

Defendant.

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APPEARANCES:

Barnes, Iaccarino & Shepherd LLP

Attorneys for the Plaintiff

Barnes, Iaccarino & Shepherd LLP

258 Saw Mill River Road

Elmsford, NY 10523

By: Wendell Shepherd, Esq., Of Counsel

NO APPEARANCE:

The Defendant

SPATT, District Judge.

On February 28, 2013, the Plaintiff Local Union No. 28, Sheet Metal Workers' International Association commenced this action, seeking to enforce an arbitration award granted under a collective bargaining agreement entered into between it and the employer Defendant, Cool Sheet Metal Inc. The Clerk of the Court having noted the default of the Defendant on June 17, 2013, and the Plaintiff having moved for a default judgment against the Defendant on June 27, 2013, the Court referred this matter to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorney's fees and costs.

On February 4, 2014, Judge Lindsay issued a Report recommending that the default judgment be denied without prejudice on the basis that the Plaintiff failed to satisfy the minimal threshold standard for confirming an arbitrator's award. To date, there has been no objection to the Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Lindsay's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Lindsay's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED, that Judge Lindsay's Report and Recommendation is adopted in its entirety; and it is further

ORDERED, that the Plaintiff's motion for a default judgment against the Defendant is denied without prejudice. The Plaintiff is directed to serve a copy of this order on the Defendant upon receipt and shall file proof of service of this order with the Court by 5:00 P.M. Monday, March 17, 2014. Further, the Plaintiff is directed to file proof of service of the underlying Report and Recommendation by 5:00 P.M Monday, March 17, 2014.

SO ORDERED.

Dated: Central Islip, New York
March 11, 2014

Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge